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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,723	11/13/2003	Mario Scatizzi	71200	2167
23872	7590	09/13/2006		
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			EXAMINER HECKERT, JASON MARK	
			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,723	<b>Applicant(s)</b> SCATIZZI, MARIO	
	<b>Examiner</b> Jason Heckert	<b>Art Unit</b> 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-5, 7, 9, 11 rejected under 35 U.S.C. 102(b) as being anticipated by Scatizzi (U.S. Patent 6,094,947). Scatizzi discloses an apparatus for dyeing textiles consisting of a plurality of vessels 1, a plurality of containers that form dyeing units 4, and baskets 6. Also including is a motor driven carriage 11 for the removal and delivery of dyeing substances as well as a motor driven carriage 88 for the positioning of the baskets. Carriage 88 comprises grip or clamp means 80 as well as an actuator 8 with a vertical axis (col. 3 line 53). In figure 1A and 1B that the apparatus is depicted as rectangular and therefore mostly longitudinal. The material removing means consist of a pipette 2 for the removal of liquid dyes (col. 2 lines 25-30).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 3, 8, 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Scatizzi. Scatizzi discloses all of the components of the claimed invention. He does not disclose the precise arrange of all of the parts. Rearrangement of parts was held to have been obvious. *In Re Japikse* 86 USPQ 70 (CCPA 1950). Locating the baskets opposite from the vessels is nothing more than an arrangement or rearrangement of parts. It would have been obvious to one skilled in the art to locate said components in whatever arrangement proves to be the most efficient for operation. In regards to claim 8 and 10, Scatizzi already shows a longitudinal apparatus with liquid supplying means as stated above. It would have been obvious to include these factors in any configuration of the apparatus, so that it may perform the desired function of textile dyeing.

5. Claim 6, 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Scatizzi in view of Scatizzi (U.S. Patent 5,360,141). In U.S. Patent 6,094,947, as described above, Scatizzi discloses a textile treating apparatus capable of delivering fluid dyes. He does not mention solid or powdered dyes. However, in the earlier patent 5,360,141 Scatizzi discloses a device for metering solid dyes. Furthermore, in the same document, Scatizzi discloses that other methods are known for delivering solid dyes (col. 1 line 15-50). It would have been obvious to one skilled in the art to include such a device on the motor driven carriage, in place of a liquid delivery system, to meter and deliver solid dyes for use in processes that require solid dyes.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Heckert whose telephone number is (571) 272-2702. The examiner can normally be reached on Mon. to Friday, 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMH 9/11/06

A handwritten signature in black ink, appearing to read "Michael Barr", with a large, sweeping flourish underneath.

**MICHAEL BARR  
SUPERVISORY PATENT EXAMINER**